IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO.581 OF 2004

National Sales & Services .. Petitioners

Vs.

Perfect Engineering P.Ltd. .. Respondent

Shri G.S.Bhat for the petitioner

Shri R.A.Shaikh for the company

CORAM : S.U.KAMDAR, J

DATED : 17th MARCH 2005

P.C.:

1. The present petition is filed for the recovery of sum of Rs.29,23,522/- comprising of principle amount of Rs.16,31,300/- and interest of Rs.12,92,222/- which is in respect of goods sold and delivered. The statutory notice was served on 26.8.03 and in reply thereto on 10.10.03 the defence has been raised that the goods were defective and sub-standard nature. Apart therefrom in the present case on the face of it the claim is time barred. The date of invoice are from 15.12.00 to 16.12.01. The petition is filed on 16.4.04. Thus, the entire claim in respect of each of the

invoice is plainly barred by the law of limitation.

2. The learned counsel for the petitioner contents that the claim is not barred by the law of limitation by virtue of on account payments made by the company in 2002 of sum of Rs.1,10,250/- and further amounts of Rs.53,650/-, Rs.55,411/- etc. For the purpose of explanation of limitation by way of part payments it is required to be shown by the petitioner that this payment is in respect of any particular invoice. Petitioner is not able to show the same nor he is able to show that the payment was made on account by way of part payment. In view thereof, bonafide disputes arises. Petition is dismissed.